



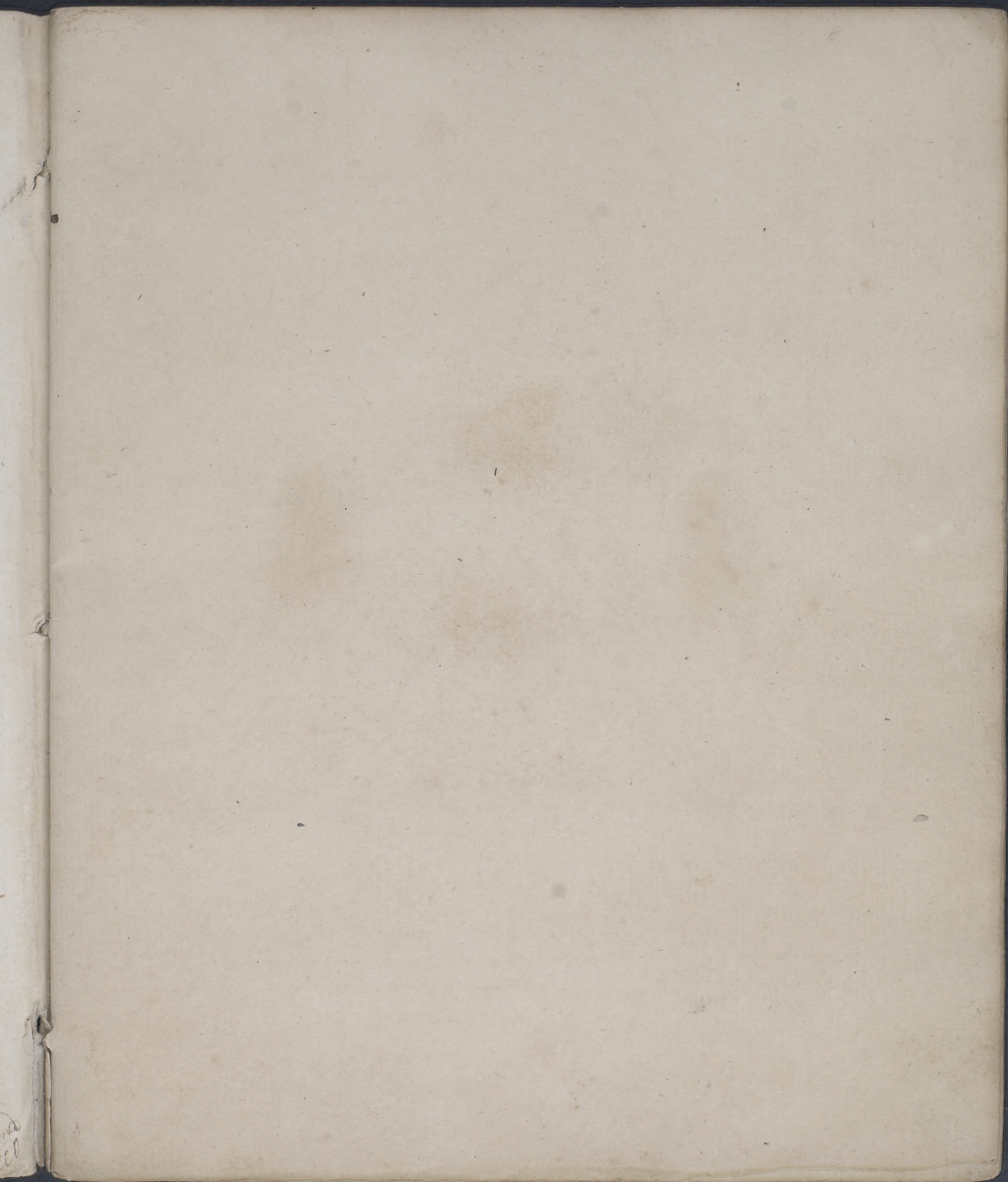
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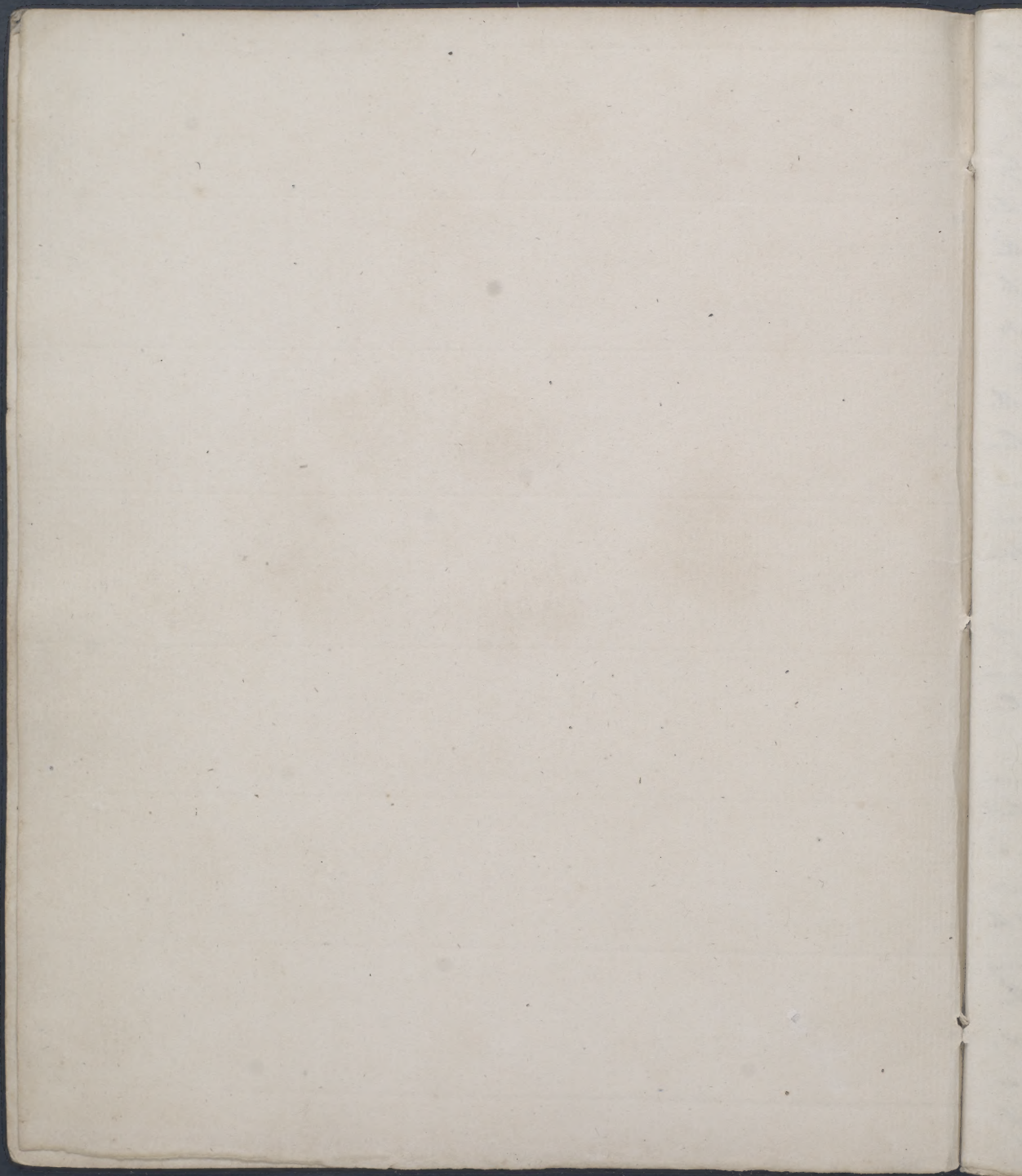


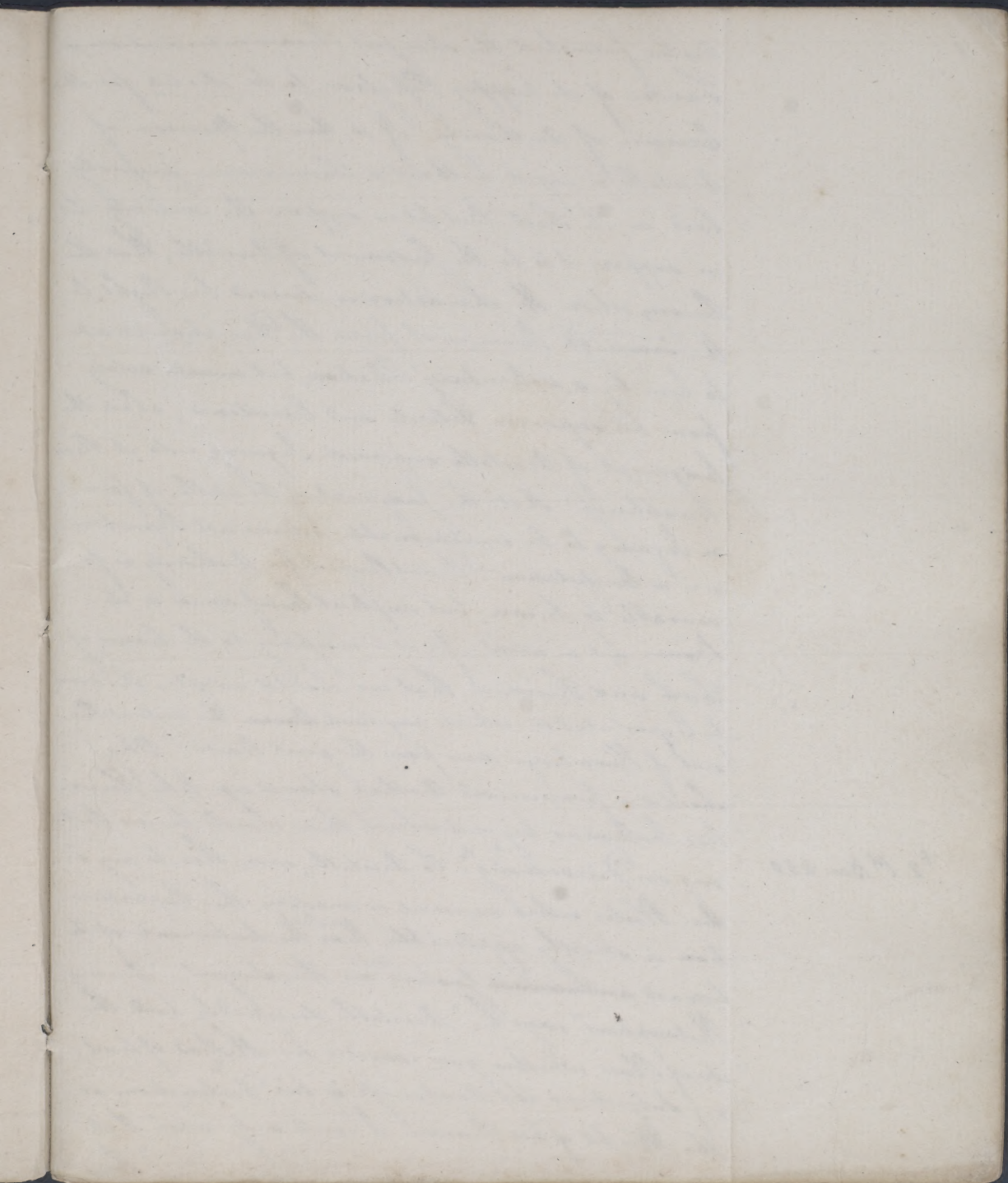
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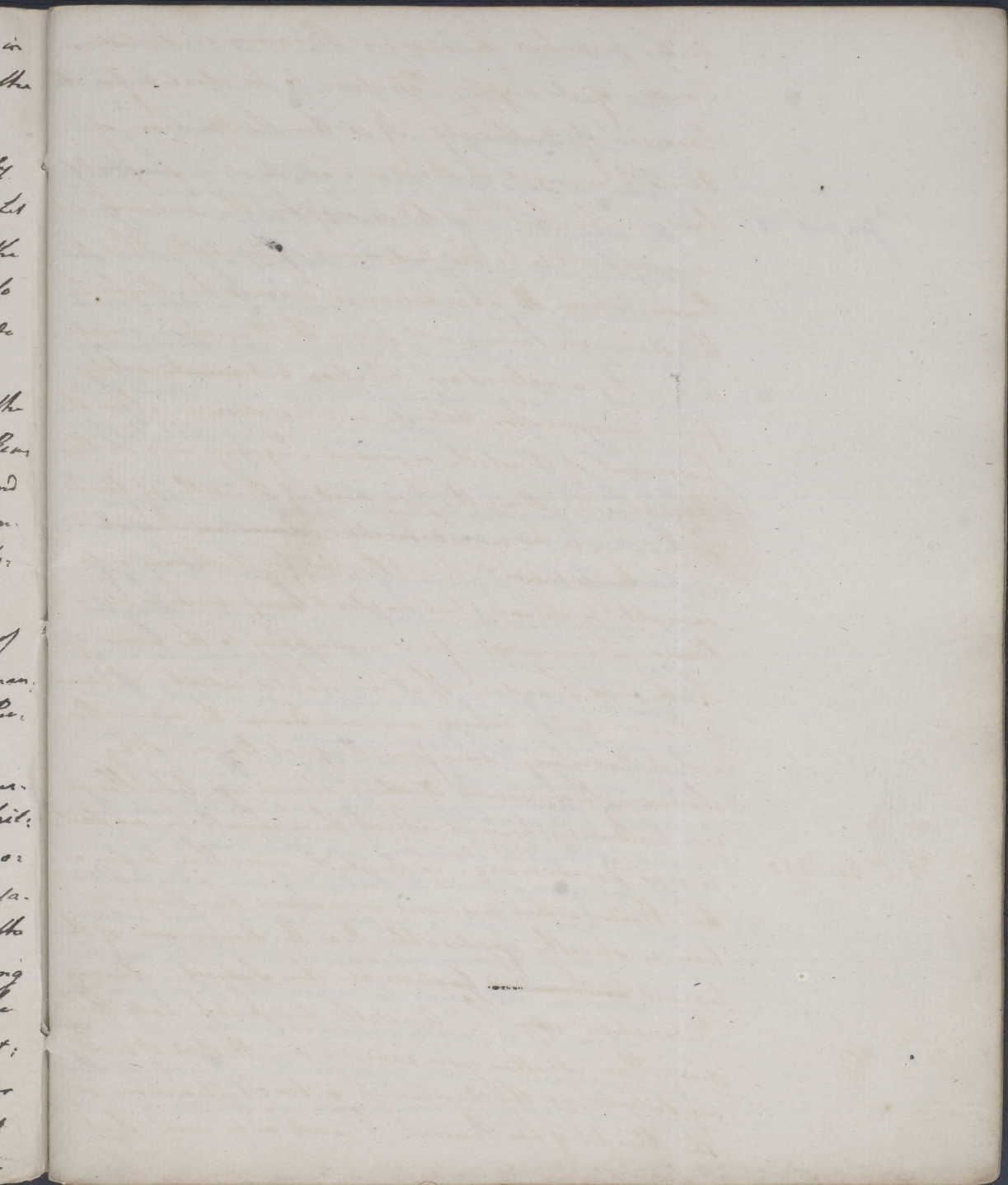




Virtue furnished the strongest Recommendation, in
 Favour of its happy Possessor to be elected for the
 Exercise of Authority. If so; then the Opinion of
 Aristotle is urged without a Foundation properly
 laid in the Fact. But let us suppose the contrary: Let
 us suppose it to be the Judgement of Aristotle, that the
 Person whom he characterizes, derived his Right to
 the ^{Exercise of} sovereign Power, not from the Donation made
 to him by a voluntary Election; but must solely
 from his superior Talents and Excellence; shall the
 Judgement of Aristotle supersede Inquiry into its Rea-
 sonableness? Shall the Judgement of Aristotle, if found
 on Inquiry to be unreasonable, silence all Reprehen-
 sion or Confutation? Duest Respect for Authority is fa-
 vourable to Science; but implicit Conf. dwells in its
 Bane. Let us adopt - for it is necessary to the Cause of
 Truth and Freedom that we should adopt - the man-
 ly Expostulation, which ~~may lead to~~ ^{is the} ardent Pro-
 vider of Knowledge drew from the great Bacon. "Why
 should a few received Authors stand up like Heru-
 les's Colossus, beyond which there should be no pass-
 ing or Discovering." To Aristotle, more than to any o-
 ther Master, either ancient or modern, this Expostula-
 tion is strictly applicable. Hear the ^{new} sentiments of the
 learned ~~and learned~~ ¹⁶⁴¹ ~~prolifer~~ on this subject. "Among
 Philosophers," says he, "Aristotle deservedly holds the
 chief Place, whether you consider his Method of treat-
 ing Subjects, or the Acuteness of his Disquisitions, or
 the Weight of his Reason. I could only wish that
 the

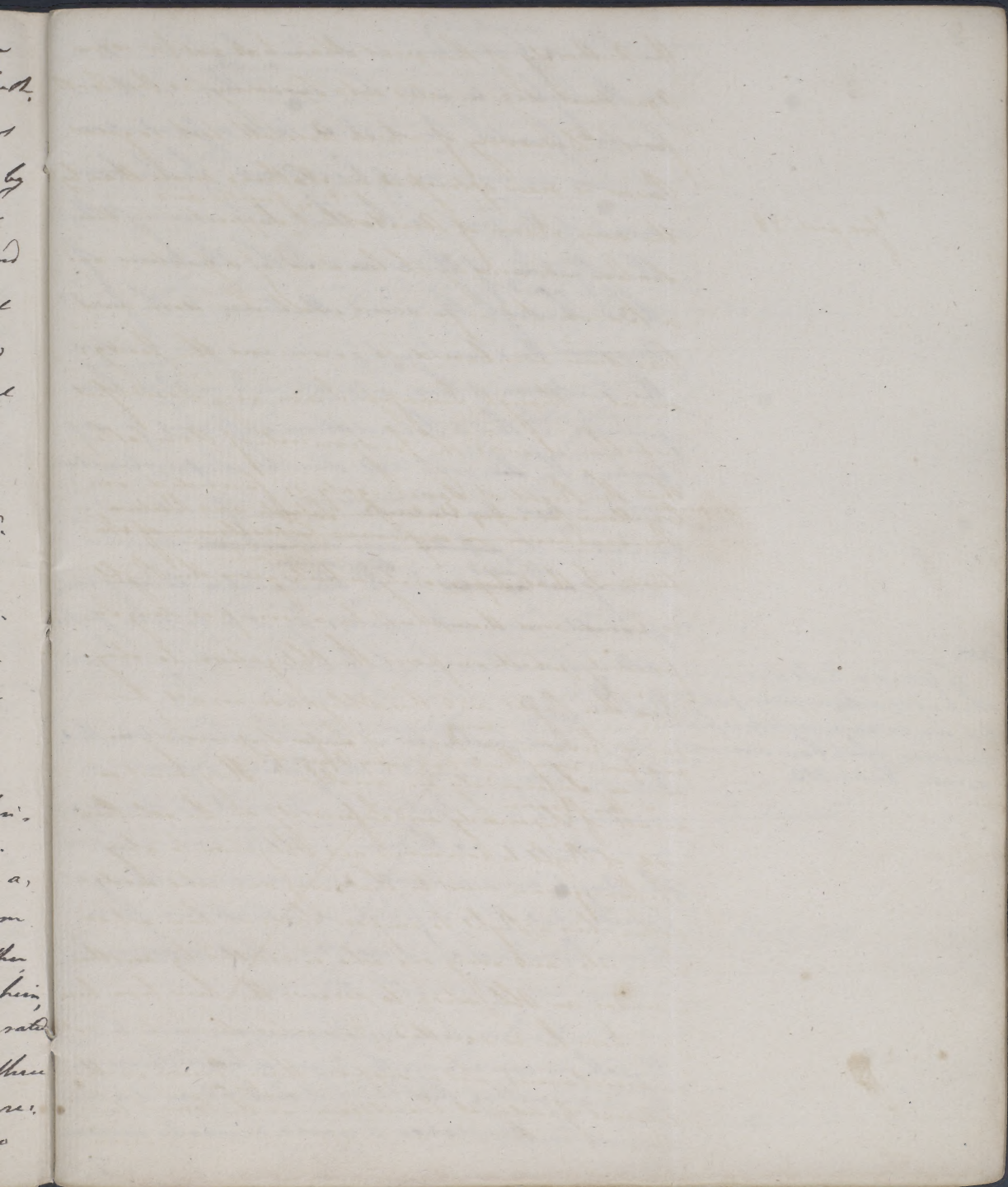
+ 2. L^d. Bai. 450





+ Geo. post. 28.

"the Authority of this great Man had not for some Ages past degenerated into Tyranny; so that Truth, for the Discovery of which Aristotle took so great Pains, is now oppressed by Nothing more than by the very Name of Aristotle." supported by the Sentiments and by the Concord of a Grocius and a Bacon, let us proceed, with Freedom and Candour combined, to examine the Judgment - though, I confess, I am very doubtful whether it was the Judgment of Aristotle, that the Right of Sovereignty is founded on ^{superior} Excellence ^{for every Virtue, Talent and Wisdom}. ~~Excellence is superior Excellence of the~~ ^{attaches} To that Superiority, which gives the Right to Command there must be a corresponding Inferiority, which imposes the Obligation to obey. Can this Right and this Obligation result from every Kind and Degree of ^{very} Superiority in and from every Kind and every Degree of ^{inferiority} in another? They must result ^{in this manner} of Superiority and Inferiority, as the sole Principle of Right to Command and Obligation to obey. The Consequence must be, that every one who excels another, has a Right to impose Laws on him whom he excels; and every one who is excelled by another is under an Obligation to receive the Law from him, by whom he is excelled. How is Excellence to be rated or ascertained? Let us suppose three Persons in three different Grades of Excellence. Is the lowest to receive



B. Had it been the Intention of Providence that some Men should govern the rest, without their Consent, we should have seen an insupportable Monarchy - distinguishing these Superiors from those placed under them, by those, which distinguished Men from the Brutes. The greater Number of our Species, our whole Nation, would be without any Notion of Property, without Regard for Liberty, without the Power of Knowledge, without the Love of Liberty. They would be perfectly satisfied to drudge for their Superior, and to hold Life and wretched Enjoyment. See below

A. When the Friends of this Doctrin say that Super-
-intendence is entailed to ~~the~~ ^{God's} govern^t, they
add, that it is not accountable for its go-
-vernment. This Inference they endeavour to es-
-tablish by reasoning, alleging that if a Man
use the Bible Creation in a Manner, the most
repugnant to Liberty and Moderation; he may
do it fairly, and they have no Right to com-
-plain. The Inference is worthy of the Principle,
from which it is inferred. We shall place in
Contrast with it an Inference resulting from
Principles of a very different Kind. A good
Man is faithful even to his Beast. He, who is
true to his Beast, would be so to his servant or
his Neighbour, if he serv^d.

A Nelson 238-242.
t. Bead. Col. 266.

See above

of life presently, and at their Will and Pleasure. But when they find such opposition, "Hutch. 302. The Remark of Remond, in the Non-resistance Time of Charles 2^d. worried Poquely as well as Mr. H. he could not conceive that the Almighty intended, that the greatest Part of Mankind should come into the World with Saddles on their Backs and Bridles in their Mouths, and that a few should come ready booted and spurred to ride the rest to Death. Still more oppo-

side to our purpose is the saying of him, who declares
that he would never subscribe the Doctrine of the
divine Right of Princes, till he beheld Subjects born
with Burden on their Backs, like Camels, and
Kings with Crowns on their Heads, like Cocks,
from which striking Marks it might, indeed,
be collected, that the former were designed to
labour and to suffer, and the latter, to stout
and to crown.

"Coling. Rem. 209.

These Pretensions to Superiority, when viewed from the
proper Point of Sight, appear indeed absurd and
ridiculous. But these Pretensions, absurd and
ridiculous as they are, when rounded and gilded
by Flattery, and swallowed by Pride, have per-
suaded ^{some} in the Bosoms of Princes the finest Feelings of
Humanity, a deadly Poison to their own Subjects
to the Happenings of their unfortunate Subjects. Those
who have been used to be Kings, have generally,
by the prohibited News of their Courtiers and Advisors, ☐ see below

A. How far does his Superiority extend? Over whom
is it exercised?

B. Over a whole grand Multitude, consisting of many La-
-miles, impossible it is that any Prince should exercise complete
lawful Power over by Consent of Men, or immediate
-able Appointment of God.†

† Hook. b. 1. c. 10. p. 18.

☐ see above - ^{taught} lost, been ^{taught} to esteem themselves a dis-
tinct and superior Species among Men, in the same
Manner as Men are a distinct and superior Spe-
cies among Animals. Since the fourteenth, the grand
Reformation, was a strong Instance of the Effect of their
Education, which teaches up Princes to be Tyrants,
without knowing that they are so. That Oppression,
under which he held his Subjects, during the whole
Course of his long Reign, proceeded chiefly from
the

5
 "Members are bound to obey, they would still remain
 "as in a State of Nature, without any Judge upon
 "Earth to define their ^{rights} Rights, and redress their se-
 "veral Wrongs: But in all the Members of Society are
 "naturally equal, it may be asked — What Question
 "may be asked? The most natural Question that occurs
 "to me is — How is this Superior to be constituted?
 "this Superior, without whom there can be no Law
 "this Superior, without whom there can be no Judge
 "upon Earth — How is this Superior to be constituted?
 "This is the Question which on this Occasion, I would ex-
 "pect to be put: ^{the only proposed} This is the Question, to which I would
 "expect to hear an Answer. But how suddenly is the
 "Scene shifted? Instead of the awful Image of the
 "personality which ^{our Vice} just now ^{described} ~~appeared~~, the mild
 "Emblems of Confidence make their Appearance. The
 "Person announced was a dead Superior, but the Person
 "introduced is an humble Trustee. For, to proceed, "it
 "may be asked, in whose Hands are the Reins of Affairs
 "of Government to be entrusted? I can very well ^{know} ~~see~~
 "how "a Society once formed" can constitute a Trustee:
 "But I am not to learn, and the Commentator has
 "not yet informed me, how this Society can constitute
 "itself their Superior. ^{A. If this Information is given in} ^{any other Part of his valuable Work, it has escaped my}
 "Notice or ^{by his Successor in the Chair of Law} ~~Importance~~, or my Memory. Indeed it
 "has been remarked before me, that ^{James} ~~the~~ William
 "Blackstone declares speaking of the ^{Origin of Go-}
 "vernment."

El. Jur. 23.

The Question recurs — how is this Superior con-
 "stituted by human Authority? Can he be constituted
 "by a Law? If he can, that Law, at least, must be made
 "with out

the Principles and Habits of his Education. By this
he had been taught to consider his Kingdom as his Patrimo-
ny, and his Power as his rightful and undelimited In-
heritance. These Sentiments were so deeply and strong-
ly imprinted on his Mind, that when one of his Ministers
represented to him the miserable Condition, to
which his Subjects were reduced, and, in the Course
of his Representation, frequently made use of the Words
"L'Etat," "the State; the King, though he approved the
Substance of all that was said to him, yet was shocked
at the frequent Repetition of the Word "L'Etat," "the
State," and complained of it as an Indecency offered
to his Person and Character. And, indeed, that Kings + Politz. part. King. 101. 102.
should imagine themselves the special Cause, for which
Societies were formed, and Governments were insti-
tuted, well close to be a Matter of Wonder or Surprise
when we find that Lawyers and Statesmen and Phi-
losophers have taught or favoured Principles that ne-
cessarily lead to the same Conclusions.

Barbeyrac - the illustrious and enlightened Barbeyrac -
whose Commentaries unravel the ^{at one time} Profoundness of the
most distinguished Philosophers ^{at one time} taught and favoured
Principles that necessarily lead to the same Conclusions, so
degrading and so destructive to the human Race.
In the Formation of Societies and civil Governments,
three different Conventions or Agreements are sup-
posed, by Ruffinodoff and many other Writers, to have ☐ see below

A. No one can confer more Power on another than he possesses
himself. Lock. Gov. P. 2. s. 6.

☐ see above - (taken from the first, is ^{consequence} ~~in some~~
an Engagement ^{by those who compose the Society or state} to form
and to regulate with one common Consent, who deserv-
-gards their Preservation, their Security, their Improv-
ement and their Happiness. The second Convention
is, to specify the Form of Government that shall be es-
tablished among them. The third Convention is, an
Engagement between the Person or Persons, in whom
the

* Puff. 651.

without a Superior; for by that Law the Superior is con-
 stituted. If there can be no Law without a Superior, then
 the Constitution of a Superior, by human Authority, must
 be made in some other Manner than by a Law. In what
 other Manner can human Authority be exerted? Shall we
 say, that it may be exerted by a Covenant or an Engage-
 ment? Let us say, for we may say justly, that it may. Let
 us suppose the Authority exerted, and the Covenant or Engage-
 ment to be made. ^{Let} The Question still remains,
 Can this Authority so exerted, can this Covenant or Engage-
 ment so made, produce a Superior? If he is now entitled
 to ^{that Appellation} ~~superiority~~, ^{he must be by Virtue of that Authority which}
 he has received: But has he received more than was gi-
 ven? Could more be given than was previously proposed?
^{to us} ~~For we deem it not~~ ^{to say, that no} ~~one~~ ^{can confer on another that which he has not himself}
 We can form clear Conceptions of Authority, original
 and derived, supreme and subordinate, entire and
 divided into Parts; but we have no clear Conceptions
 how the Parts can become greater than the whole, nor
 how Authority that is derived can become superior to
 that Authority, from which the Derivation was made.
 If these ^{observations} Reflections are well founded, it will be
 difficult - perhaps we may say impossible to account
 for the Constitution of ^{a Superior by} human Authority. Is there
 any other human Source, from which ~~that~~ Superiority
 can spring? 'Tis thought there is. 'Tis thought that human
 Submission can effectuate a Purpose, for which the Accom-
 plishment of which human Authority has been found to
 be unavailing. And is it come to this? Must Submission to
 an Equal by the Name, under which we must pass, before we
 can diffuse the mild Power, or participate the benign In-
 fluence of Law? If such is our Fate, let Resignation be our
 Lot; but before we resign ourselves, let us examine what
 our Fate be so hard.

That

7
That I may be able to convey a just and full
Representation of Opinions that have been enter-
-tained on this Subject; I shall give an Abstract of
the Manner, in which Puffendorff has reason'd con-
-cerning it, in his Chapter on the Generation of civil So-
-verignty. ^{His Object is} "Let us ~~proceed~~ ^{examine} whence
"that Sovereignty or supreme Command, which ap-
-pears in every State, and which, as a Head of Sort, in-
-forms, enlivens, and moves the publick Body, is origin-
"ally produced." In this Enquiry he supposes that
a single Authority requires Natural Strength; and a
Little. "Both these Requisites," says he, "immediately
"flow from those Facts, by which the State is constituted and
"sustains. With Regard to the former - natural Strength
he observes, that "since all the Members of the State,
"in submitting their Wills to the Will of a single Person;
"or, did, at the same Time, thereby oblige themselves
"to Non-resistance, or to obey him in all his Orders and
"Endeavours of applying their Strength and Wealth
"to the good of the publick; it appears that he who holds
"the sovereign Power, is possessed of sufficient ^{Power} to com-
-pete the Discharge of the Injunctions which he lays."
"So likewise," adds he, "the same Covenant affords a
"full and easy Little, by which the Sovereignty appears
"to be established, not upon Violence, but in a lawful
"Manner, upon the voluntary Consent and Subjection
"of the respective Members. This then is the nearest
"and immediate Cause, from which sovereign Authority,
"only, as a moral Quality, doth result. For if we suppose
"Submission in one Party, and in another the Acceptance
"of that Submission, there accrues presently to the latter
- "for

Course of our Investigations we shall see the black and unwholesome Principle lurking and discoloured the fairest and the soundest Subjects.

To convince you that I speak just without passion
-ation; and to show you - what you suspect not till
they are shown - the extravagant ^{Habits} opinions, which have
been entertained, on this Head, permit me to lay before you
a Number of ^{Sentences} extracts and Quotations, which
Grotius has collected to gather in, order to combat the
Sentiments of those, who ^{hold that} "will have the Supreme Power"
to be always, and without Exception, in the People.
Historians and Philosophers, Poets and Priests, Bishops and Fathers are all seen.
When Tacitus says that "as we must live with Stormy Nations, - moved on the to oppose
the dangerous Doctrine."
"and the Inconvenience of Nature, so we must
live with the Luxury or Avarice of Princes". Grotius
tells us, "it is admirably said", Marcus Antoninus, the
Philosopher, is produced as an Authority, "that our
Magistrates are to judge of private Persons, Priests
of Magistrates, but not alone of Priests". King Gro. 68. 71.
Vattel declares that "what regards the royal Power,
is to be judged by the Powers above; the Council
is derived from Heaven, and is accountable to
Heaven alone". Innocent, we are informed, says, Gro. 71.
essentially, "by whose Orders they are born; by his
Commanded Kings are ordained". The same Gro. 71.
Doctrine is contained in the Constitution of
Clement; "you shall fear the King, knowing
that he is chosen ^{of God}". In a Tragedy of Corneille, Gro. 71.
the "Suppliants" ^{speak this Language to} their King - "Sir, you
are the City and the Public; you are an independent
Judge. He sits upon your Throne, as upon an Altar, #
you alone govern ^{by} your absolute Command." Gro. 68.
Now is the very Prototype of the Idea of Louis XIV.
^{signified by the Name of Gro. 71.}
If the wife the City and the Public, to mention "L'Etat"
in his Person, as something separate and distinct,
was certainly an Inducement, because it contained
an implied, though distant Limitation of his Power.
The Reverend Bishop of Bourges addresses a King of
France in this very remarkable Manner -
"any of us, O King! should transgress the Bounds
of

"of Justice; he may be punished by you; But if you, ^{Permit me to say before}
 yourself, should offend, who shall call you to account? When we make Representations to you, if ^{you what their teachers also}
 you please, you hear us: But if you will not, who ^{best Times, 2. Henri, 120.}
 shall condemn you? There is none, but he who ^{121. And yet Reason}
 has declared himself to be Justice itself. When ^{you yourself allows it}
 such have been the Principles propagated and com-
 -mended by sage Philosophers and by renowned Do-
 -ctors; should we wonder that so many Kings, ^{121. 122. Indeed, the}
 -fret and unworthy to be trusted with the government ^{Lawyers, in almost all}
 of Mankind, appear in the World: Ought we not ^{to wonder that any of them turn out to be}
 -wonder that any of them turn out to be

B. Shall ^{if left to}
~~these~~ ^{present Kings as Legislators,}
^{the People?} Nothing. What are they? Slaves. What ^{(De Lolme, 87) and we have}
 will be their Portion? That of the Beast - ^{that in the Dictation of}
 Compliance and Punishment: so low it is that, in the ^{many, Legislatures and}
 Attempt to make one Person more than Man, Millions ^{of}
 must be made life. ^{more, Terms. To uniform old}

⁸⁸ Even Baron de Hopping, the late celebrated Philosopher of ^{language of Montesquieu,}
 Hall, ^{Hall, wrote concerning} ^{out, rejecting or only admitting a Distinction so vague, as to leave}
 -ness to the Freedom and Rights of Men. ^{Domat, in his civil laws, during the}
^{Domat, in his civil laws, during the} ^{Domat, in his civil laws, during the}

A. Has this been always done - must this be always done,
 in every State, where Law is known or felt?

☐ See above - rable? It may be said, that it is in all ^{Errors and Imperfections}
 Probability, Lewis 11. who was remarkably ^{never read the Tragedies of Euripides, nor the}
 History of Gregory of Tours: It is highly probable ^{that the news did: but it is equally probable that}
 that the news did: but it is equally probable that ^{their sentiments were known in his Court, and this very Book of the}
 found their Way through the Channels of Flattery, to the royal Ear. ^{Every plausible Reason, dedicated to his Father, and}
 in Favour of arbitrary Power ^{appearing in a respectable Dress, and intro-}
 -duced by an influential Patron, is received ^{with}

9
 Indeed the ^{Author} ~~supporter~~ of this system betrays a
 -rest consciousness that it is too weak and too disjoint,
 -ed to stand without an ^{external} ~~additional~~ support. "Yet still,"
 says he, "to procure to the supreme Command an effe-
ctual Efficacy and a sacred Respect, there is need of an
 -ther additional Principle, besides the submission of the
 -Subjects. And, therefore, he who affirms Sovereignty to
 -result immediately from Compact, doth not, in the least,
 -detract from the sacred Character of civil Government,
 -or maintain that Princes bear Rule by free an Right
 -only, not by divine.[†] After some farther Hypotheses
 with regard to the ^{the Cause of} ~~origin~~ of Government and Sovereignty,
 ly, the Author acknowledges that there is very little dif-
 -ference between his statements on the subject and those of
 Boeder. What Boeder's Statements were we learn from
 the Account of them given by our Author. "The supreme
 Authority," says Boeder, "is not to be derived from the bare
 Act of Man, but from the Command of God, and from the
 Law of Nature! Or from such an Act of Man, by which
 the Law of Nature was followed and obeyed." "For he
 -that enjoys Society, enjoys likewise the Order and Me-
 -thod to be observed in it."

† Puff. 651.
 2. Burl. 39.

4 Puff. 651.

So far Puffendorf seems willing to go. He adopts
 a kind of compromising Principle. He grants the Right of
 the sovereign immediately upon the submission of the
 Subjects; but, to complete the Efficacy of supreme Command,
 he calls in the Aid of an additional Principle, the sacred
 Character of civil Government, and the divine Right of
 Princes to bear Rule. Farther he was unwilling to proceed.
 It has been often the State of a compromise between two
 Parties, that it has given entire Satisfaction to neither.
 Such has been the State of that adopted by Puffendorf. Some
 will certainly think that he has given too much. Some
 - too little.



with England, and protected with vigilance by an
 orbitrary Government. The consequence is, that, in
 such a Government, political prejudices are last of
 all, if ever, overcome or eradicated. But these Doctrines,
 it may be replied, are not now believed, not even in
 France: But they have been believed—they have been
 believed, even in France, to the Slavery and Misery
 of Millions. And if, happily, they are not still the ☐ See below

A. I desire, Remark, that in this Passage, Puffendorff af-
-firmes the divine Right of Princes to bear Rule as
an admitted Precept, and seems only solicitous
to shew that the Account which he has given of the
Origin of Sovereignty is not inconsistent with their
sacred Character

[illegible]

lance to the claim, which Princes have boldly made, of a divine Right to rule. Others have thought, that, in his Composition of a Sovereign, he has infused too great a Proportion of human Authority. They pursue the Source of Superiority farther than he is willing to accompany them and maintain that it is the Supreme Being who confers immediately the supreme Power on Princes, without the Intervention or Concurrence of Man.

⁺ 2. Burd. 41.
Puff. 652. 653.

This Doctrine, in some Countries, and at some Periods has been carried to a very extravagant Height, and has been supported and propagated with uncommon Zeal. It has been a Favourite at Courts; and has been treated with every Appearance of profound Respect, by some; and in ^{too many} some Instances, by Philosophers and Divines, who have mistaken and sometimes excelled even Countries themselves by their Proficiency in the slavish Art. In the Reign of James the second of Great Britain "the immediate Emanation of divine Authority" was introduced on every Occasion, and engrafted upon with the strangest Improperity, on every Subject. Even in the present Century, a Book has been burnt by the Hangman, because its Author maintained, "that God is not the immediate Cause of Sovereignty."

"Puff. 652."

It cannot escape Observation, that, in one Particular those who carry this Doctrine the farthest seem to ^{challenge} dispute, with some Success, the Palm of Consistency, ^{with} those who refuse to accompany them. Both entertain the same Sentiments - and they are certainly over-charged one concerning Sovereignty and Superiority. They far ^{far} exceed ^{both} ^{are} ^{leaved} together. But here one Division ^{holds} it with aloof. The other is determined to proceed; and, looking back on those behind them, ^{why} demand of them

A. See four pages after ~~the~~ 12.

This contaminating Principle has done and still continues to do the greatest and the most extensive mischief in Asia, it reigns universal and uncontested. In too many Parts of Europe it still retains and diffuses its infectious Influence. ^{Let us turn to this subject, its importance cannot be too much appreciated.} Let us turn to this subject, ^{let us receive instruction from} ~~let us receive instruction from~~ ^{the lips of a well-informed and a well-experienced Minister of one who, probably, had felt what he felt of, deserves - but one who had been bred to the Trade of a Prince, and who ~~was~~ perfectly had been perfectly initiated in all the secrets of the Profane - the like Frederick of Prussia.} ^{Myself} "If my Reflection says he," shall be fortunate enough to reach the Ears of some Prince; they will find, among them, certain Truths, which they never would have heard from the Lips of their Courtiers and Flatterers: Perhaps, they will be struck with Astonishment to see such Truths ^{now} placed, by their side, on the Throne. But it is Time that, at last, they should learn, that their false Principles are the most poisoned Source - la source la plus empoisonnée - of the calamities of Europe. Here is the Giver of the greatest Part of Princes. They believe that God has, expressly, and from a particular Attention to their grandeur, their Happiness, and their Pride, the whole ~~Attention~~ ^{formed} of them, committed to their charge, and that their Subjects are ^{formed} ~~are~~ ^{formed} for no other Purpose than to be the Ministers and Instruments of their untamed Passions. As the Principle from which they set out is false, the Consequences cannot be otherwise than infinitely pernicious. Hence the unregulated Passion for false glory - hence the insatiable Desire of Conquest - hence the oppression of quivering Nations laid upon the People - hence the Indolence and Degeneration of Princes - hence their Ambition, their Injustice, their Inhumanity, their

Spreng

"Tyranny - hence, in short, all those Vices, which degrade
the Nature of Man. If they would divorce themselves of
these erroneous Opinions; if they would ascend to the
true Origin of their Appointment, they would see that
their Elevation and Rank, of which they are so jealous,
is, indeed, Nothing else than the Work of the People; they
would see that the Myriads of Men placed under them
have ^{themselves} made the Slaves of ^{one single} Man, with
a View to render him ^{more} powerful and ^{more} formidable;
have not submitted themselves to a fellow Citizen in or-
der to become the Sport of his Caprice, and the Martyrs
of his Caprice; but have chosen from among themselves
the Man whom they believed ^{to be} the most just, ^{that he might} to govern them;
the fittest ^{best} to supply the Place of a Father; the most humane,
that he might compassionate and relieve them in their
troubles; the most valiant, that he might defend them against
their Enemies; the wisest, that he might not engage them
inconsiderately in ruinous and destructive Wars; in one
Word, the most proper Man to represent the Body of the
State, and in whom the sovereign Power might become
a Bulwark to Justice and to the Law, and not the Engine
of Tyranny, by the Force of which Tyranny might be ex-
tended, and Crimes might be committed with Impunity.

"This Principle being once established, Princes would not
more avoid the two Rocks, which in all Ages have produced the
Ruin of Empires, and Distraction in the political World - un-
governed Ambition, and a little self-indulgence to Affairs, ^{the}
short of pursuing long with without End, them - "They
would often reflect that they are Men as well as the least
of their subjects - that if they are the first Judges, the first
Generals, the first Legislators, the first Ministers of Justice;
they are so, for the Purpose of fulfilling the Duties, which their
Station imports. They would reflect, that they are only the first
servants of the State, bound to act with the same Pa-
tience, the same Caution and the same entire Disinterested-
ness, as if, at every Moment, they were to render an Account
of their Administration to the Citizens."

H. Puffendorf Works, v. 6.
p. 48-50.

H. Puffendorf Works, v. 6.
p. 83, 84.

"the supreme Power. The Case is here very near the same
 "as in that of several Voices collected together, which, by
 "their Union, produce a Harmony, that was not to be
 "found separately in each."

+ 2. Bunt. 41. 42.

The Metaphors drawn from Vegetation and Music
 may illustrate and please, but they cannot ^{nor convince} ~~prove~~.
 The Notion of virtual Sovereignty is as unsatisfactory
 to me, on this Occasion, as that of virtual Representation
 has been, on many others. Indeed I see but
 little Difference between a Claim to derive from one,
 than that which he is ^{to give} ~~willing~~ but ^{of which he is not possessed} ~~has not~~
~~Power~~, and a Claim to derive from that which
 he ^{possesses} ~~has~~, but which he has not given, and will not give.
 Besides; let me repeat the Questions, which I formerly
 put - Have these degrading Steps been always taken -
 must they be always taken, in every State, where Law
 is known or felt? For let it not be forgotten that Super-
 -stition is introduced as a necessary Part of the Dis-
 -tinction of Law.

+ nor the still more he-
 -dious Practices, that have
 claimed Immunity, for
 indulgence and sanction.

I will not attempt to present the ^{desirable} ~~hedious~~ ^{Consequences} ~~gross~~
^{that, from the} ~~gross~~ ^{Principle} ~~of the divine Right of Kings.~~ Also,
^{to be} ~~unlimited and~~ ^{indefeasible} ~~Power, Non-Resistance~~
 and ~~Popish~~ ^{and} ~~Widow~~ ^{Tyranny} and ~~Slavery~~ ^{walk in}
 its Train. A.

I will not
~~endeavour~~ ^{to} ~~attempt~~ ^{to} ~~change~~ ^{to} ~~those~~ ^{to} ~~doctrines~~ ^{to} ~~which~~ ^{to} ~~the~~ ^{to} ~~Author~~ ^{to} ~~whose~~ ^{to} ~~Opinions~~ ^{to} ~~I have~~ ^{to} ~~expressed~~ ^{to} ~~my~~ ^{to} ~~disapprobation~~ ^{to} ~~and~~ ^{to} ~~which~~ ^{to} ~~the~~ ^{to} ~~Consequences~~ ^{to} ~~that~~ ^{to} ~~have~~ ^{to} ~~been~~ ^{to} ~~drawn~~ ^{to} ~~from~~ ^{to} ~~these~~ ^{to} ~~Principles~~ ^{to} ~~and~~ ^{to} ~~which~~ ^{to} ~~the~~ ^{to} ~~Author~~ ^{to} ~~has~~ ^{to} ~~expressed~~ ^{to} ~~his~~ ^{to} ~~disapprobation~~ ^{to} ~~and~~ ^{to} ~~which~~ ^{to} ~~the~~ ^{to} ~~Consequences~~ ^{to} ~~that~~ ^{to} ~~have~~ ^{to} ~~been~~ ^{to} ~~drawn~~ ^{to} ~~from~~ ^{to} ~~these~~ ^{to} ~~Principles~~ ^{to} ~~and~~ ^{to} ~~which~~ ^{to} ~~the~~ ^{to} ~~Author~~ ^{to} ~~has~~ ^{to} ~~expressed~~ ^{to} ~~his~~ ^{to} ~~disapprobation~~ ^{to} ~~and~~ ^{to} ~~which~~ ^{to} ~~the~~ ^{to} ~~Consequences~~ ^{to} ~~that~~ ^{to} ~~have~~ ^{to} ~~been~~ ^{to} ~~drawn~~ 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~~and~~ ^{to} ~~which~~ ^{to} ~~the~~ ^{to} ~~Author~~ ^{to} ~~has~~ ^{to} ~~expressed~~ ^{to} ~~his~~ ^{to} ~~disapprobation~~ ^{to} ~~and~~ ^{to} ~~which~~ ^{to} ~~the~~ ^{to} ~~Consequences~~ ^{to} ~~that~~ ^{to} ~~have~~ ^{to} ~~been~~ ^{to} ~~drawn~~ ^{to} ~~from~~ ^{to} ~~these~~ ^{to} ~~Principles~~ ^{to} ~~and~~ ^{to} ~~which~~ ^{to} ~~the~~ ^{to} ~~Author~~ ^{to} ~~has~~ ^{to} ~~expressed~~ ^{to} ~~his~~ ^{to} ~~disapprobation~~ ^{to} ~~and~~ ^{to} ~~which~~ ^{to} ~~the~~ ^{to} ~~Consequences~~ ^{to} ~~that~~ ^{to} ~~have~~ ^{to} ~~been~~ ^{to} ~~drawn~~ ^{to} ~~from~~ ^{to} ~~these~~ ^{to} ~~Principles~~ ^{to} ~~and~~ ^{to} ~~which~~ ^{to} ~~the~~ ^{to} ~~Author~~ ^{to} ~~has~~ ^{to} ~~expressed~~ ^{to} ~~his~~ ^{to} ~~disapprobation~~ ^{to} ~~and~~ ^{to} ~~which~~ ^{to} ~~the~~ ^{to} ~~Consequences~~ ^{to} ~~that~~ ^{to} ~~have~~ ^{to} ~~been~~ ^{to} ~~drawn~~ ^{to} ~~from~~ ^{to} ~~these~~ ^{to} ~~Principles~~ ^{to} ~~and~~ ^{to} ~~which~~ ^{to} ~~the~~ ^{to} ~~Author~~ 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A. Surfaces Pages before 10.

and cherished by many from Motives, mistaken certainly, but pardonable and even laudable; and that it was intended, not so much to introduce the Tyranny of Princes, as to form a Barrier against the Tyranny of Priests. One of them, at the Head of a numerous, formidable and a well-disciplined Phalanx claimed to be the Almighty's Vice-gerent upon Earth, claimed the Power of deposing Kings, disposing Crowns, releasing Subjects from their Allegiance, and overruling the whole Transactions of the Christian World. Superstition and Ignorance, though they dreaded, ^{but} could not oppose the presumptuous Claim. The Pope had obtained what Antkromedes wanted, another World on which he placed his ecclesiastical Machinery and it was no Wonder that he moved this according to his Will and Pleasure. Princes and Potentates, States and Kingdoms were prostrate before him. Every Thing human was obliged to bend under the incumbent Yoke of divine Control. It is not improbable, that, in this disagreeable Predicament, the divine Right of Kings was considered as the only Principle that could be opposed to the Claims of the Pope, and as the only Means that could preserve the evil from being swallowed by the ecclesiastical Powers. This Conjecture receives a Degree of Probability from a Fact, which is mentioned in the History of France. In a general Assembly of the States of the Kingdom, it was proposed to canonise this ^{Position} Proposition, that Kings derive their Authority immediately from God. You see Doubt,

ful



The peremptory Argument in Support of roasting
Heretics, was, that God punishes them in that
Manner in the next World, and that every Prince
or his Representative, was doom'd to afflict
constantly, as the Image of God in this sublunary
World. Com. on Rev. c. 3. p. 199.



Every Thing existing in Nature is determined to exist,
and to exist after a certain Manner, in Consequence of Rules, fixed and determinate. These Rules conduct them to the End of their Existence. + West. L. 34.
+ Ch. 1. 1. 1.

purchase. Now; and to select some leading and homely
Proposals, which will serve to quiet and enlighten us
in those ^{long} ~~useless~~ ^{difficult} ~~and~~ ^{of} ~~our~~ ^{of} ~~journey~~ ^{of} ~~where~~ ^{of} ~~we~~ ^{of}
now to ~~make~~ ^{undertake}.

It may, perhaps be expected that I should begin my
course of lectures with a Regular Definition of Law. I can

4th No. of public Detachment to com. not insensible of the Use; b^t, at the same time I am not
- sider any kind or degree as insensible of the Abuse of Definitions. In this way I have
already built up, or finished, the Acquisition of Knowledge
for 171-273. ^{here, they are not calculated to extend though they may be}
well ^{and guard} ^{against} ^{by} ^{diffusion} ^{if made well}
applied to ascertain the Limits of Knowledge.

Accuracy - a character, see
-dispensable. Exquisite in them they may present

⁺ Rud. E. 562. 563.

Racem. Herb. 6. 3. Ap. 1.

"And. E. 10. 11.

yet language may furnish us with no Words to express
~~Black~~ ^{Blue} in a species of colour; but how shall we express
 the specific Difference by which ~~black~~ ^{blue} is distinguished
 from ~~black~~ ^{blue}? Again; Expressions, which ~~express~~ ^{express} Things or con-
 -~~cept~~ ^{cept} and word of all Composition, are ~~unavoidable~~ ^{from the very nature of the thing} ~~of~~ ^{of} ~~the~~ ^{the} ~~thing~~ ^{thing}
 -~~ation~~ ^{ation}. It was one of the capital Defects of Aristotle's Philo-
 -sophy, that he attempted and pretended to define the sun-
 "Read. E. N. 12 - ^A ^B ^C ^D ^E ^F ^G ^H ^I ^J ^K ^L ^M ^N ^O ^P ^Q ^R ^S ^T ^U ^V ^W ^X ^Y ^Z ¹ ² ³ ⁴ ⁵ ⁶ ⁷ ⁸ ⁹ ¹⁰ ¹¹ ¹² ¹³ ¹⁴ ¹⁵ ¹⁶ ¹⁷ ¹⁸ ¹⁹ ²⁰ ²¹ ²² ²³ ²⁴ ²⁵ ²⁶ ²⁷ ²⁸ ²⁹ ³⁰ ³¹ ³² ³³ ³⁴ ³⁵ ³⁶ ³⁷ ³⁸ ³⁹ ⁴⁰ ⁴¹ ⁴² ⁴³ ⁴⁴ ⁴⁵ ⁴⁶ ⁴⁷ ⁴⁸ ⁴⁹ ⁵⁰ ⁵¹ ⁵² ⁵³ ⁵⁴ ⁵⁵ ⁵⁶ ⁵⁷ ⁵⁸ ⁵⁹ ⁶⁰ ⁶¹ ⁶² ⁶³ ⁶⁴ ⁶⁵ ⁶⁶ ⁶⁷ ⁶⁸ ⁶⁹ ⁷⁰ ⁷¹ ⁷² ⁷³ ⁷⁴ ⁷⁵ ⁷⁶ ⁷⁷ ⁷⁸ ⁷⁹ ⁸⁰ ⁸¹ ⁸² ⁸³ ⁸⁴ ⁸⁵ ⁸⁶ ⁸⁷ ⁸⁸ ⁸⁹ ⁹⁰ ⁹¹ ⁹² ⁹³ ⁹⁴ ⁹⁵ ⁹⁶ ⁹⁷ ⁹⁸ ⁹⁹ ¹⁰⁰ ¹⁰¹ ¹⁰² ¹⁰³ ¹⁰⁴ ¹⁰⁵ ¹⁰⁶ ¹⁰⁷ ¹⁰⁸ ¹⁰⁹ ¹¹⁰ ¹¹¹ ¹¹² ¹¹³ ¹¹⁴ ¹¹⁵ ¹¹⁶ ¹¹⁷ ¹¹⁸ ¹¹⁹ ¹²⁰ ¹²¹ ¹²² ¹²³ ¹²⁴ ¹²⁵ ¹²⁶ ¹²⁷ ¹²⁸ ¹²⁹ ¹³⁰ ¹³¹ ¹³² ¹³³ ¹³⁴ ¹³⁵ ¹³⁶ ¹³⁷ ¹³⁸ ¹³⁹ ¹⁴⁰ ¹⁴¹ ¹⁴² ¹⁴³ ¹⁴⁴ ¹⁴⁵ ¹⁴⁶ ¹⁴⁷ ¹⁴⁸ ¹⁴⁹ ¹⁵⁰ ¹⁵¹ ¹⁵² ¹⁵³ ¹⁵⁴ ¹⁵⁵ ¹⁵⁶ ¹⁵⁷ ¹⁵⁸ ¹⁵⁹ ¹⁶⁰ ¹⁶¹ ¹⁶² ¹⁶³ ¹⁶⁴ ¹⁶⁵ ¹⁶⁶ ¹⁶⁷ ¹⁶⁸ ¹⁶⁹ ¹⁷⁰ ¹⁷¹ ¹⁷² ¹⁷³ ¹⁷⁴ ¹⁷⁵ ¹⁷⁶ ¹⁷⁷ ¹⁷⁸ ¹⁷⁹ ¹⁸⁰ ¹⁸¹ ¹⁸² ¹⁸³ ¹⁸⁴ ¹⁸⁵ ¹⁸⁶ ¹⁸⁷ ¹⁸⁸ ¹⁸⁹ ¹⁹⁰ ¹⁹¹ ¹⁹² ¹⁹³ ¹⁹⁴ ¹⁹⁵ ¹⁹⁶ ¹⁹⁷ ¹⁹⁸ ¹⁹⁹ ²⁰⁰ ²⁰¹ ²⁰² ²⁰³ ²⁰⁴ ²⁰⁵ ²⁰⁶ ²⁰⁷ ²⁰⁸ ²⁰⁹ ²¹⁰ ²¹¹ ²¹² ²¹³ ²¹⁴ ²¹⁵ ²¹⁶ ²¹⁷ ²¹⁸ ²¹⁹ ²²⁰ ²²¹ ²²² ²²³ ²²⁴ ²²⁵ ²²⁶ ²²⁷ ²²⁸ ²²⁹ ²³⁰ ²³¹ ²³² ²³³ ²³⁴ ²³⁵ ²³⁶ ²³⁷ ²³⁸ ²³⁹ ²⁴⁰ ²⁴¹ ²⁴² ²⁴³ ²⁴⁴ ²⁴⁵ ²⁴⁶ ²⁴⁷ ²⁴⁸ ²⁴⁹ ²⁵⁰ ²⁵¹ ²⁵² ²⁵³ ²⁵⁴ ²⁵⁵ 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B ~~led on by some Defenders and Deismans~~ By
some Philosophers, Defenders and Deismans are con-
sidered as the two great Sins of Science; but really "2. Mon. 453.
they are marked by

A
 Here it may be worth while to note a Difference between our own abstract
Notions and Objects of Nature. The former are the Productions of our
own Minds; we can therefore define them ^{as we please} ~~as we please~~, and assign
their Limits. But the latter run so much into one another, and
 their Species which discriminate and divide them for are so
subtle and latent, that it is always difficult, often impossible, to
define ^{or divide} them with the proper Precision. This Distinction
 suggests a practical Inference. Definitions in law - the Creation of Man - may be more useful, because
 more admirable ^{and more exact} ~~than~~ in natural Objects.

8. We are in Danger of circumventing Nature within the Bounds of our own Actions, formed frequently on a partial and defective View of the Object before us, and comprehending but a Part of what she has designed according to her Plan and Order of Creation. Confessing then at our Duties, we are restrained in our Progress, and govern the Course of our Inquiries not by the Extent or Variety of our Subjects, but by our own pre-^{scribed} apprehensions concerning it.

Book II.

— Cuius vitam patulungit morabimur orbem,
Nunc pudor profere pedem, velat aus operis lex.

by reflecting that my observations on the ^{subject of law} ~~Difficulties and Def-~~
~~iciency of former Definitions, as far as~~ ^{far} ~~and amplification is con-~~
~~formed by the State of the greatest Number of those who~~
~~have attempted them.~~ ^{Many} ~~as it is reasonable to sup-~~
~~pose, and laboring~~ ^{scientific} ~~have been the Efforts to unfold laws~~
~~within the Circle of a Definition.~~ ^{great} ~~Since Laws, indeed,~~
~~been taken; but little Satisfaction, little Instruction~~
~~has been the Result.~~ ^{Almost every} ~~Writer, sensible~~
~~to the Defect, the Inaccuracy or the Impropriety of the~~
~~Definitions, that have gone before him, has endeavored~~
~~to supply their Place with something, in his Opinion,~~
~~more proper, more accurate and more complete. He~~
~~has been treated by his Successors as his Predecessors had~~
~~been treated by him; and his Definition has had only~~
~~the Effect of adding one more to the lengthy tangle of Def.~~
~~And I think, because I have taken the Trouble to read them~~
~~in great Number; and because I have taken the Trouble~~

So long as we content ourselves ^{to read them, I will spare you the Trouble of hearing}
~~with the metaphysical Sales an-~~ ^{them - at least the quietest Part of them. Some of them,}
~~ward to the Term Law, we must~~ ^{ended have a}
~~talk unintelligibly; and though however, with~~ ^{them to}
~~we should consult a Definition will demand it, for Reasons striking and powerful -~~
~~of natural Law, we should not~~ ^{I mean, that given by the} ~~commentator on~~
~~know there is any Thing more of the Law of England. I shall often have Occasion to men-~~
~~tion his Performance which has obtained great and~~

~~just~~ ^{Reputation,} ~~approbation.~~ ^{On some Occasions I shall have the Plea-}
~~sure of approving his Sentiments; On others I shall feel~~ ^{Reasons}
~~myself under the disagreeable Necessity of opposing~~
~~them: On all Occasions I shall treat them with the Ben-~~
~~efaction merited by the Character and Talents of their~~
~~Author. I can admire him much: But I cannot~~
~~follow him implicitly.~~

Let us now proceed, carefully, patiently and mi-
 nutely, with manly freedom and with honest Candour,
 to view and examine ~~his~~ ^{the} ~~system of law.~~ ^{of law.} If I am



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not succeed; the Examination will richly com-
-pensate all the Time and Trouble and Attention that
will be allotted to it; for it will be uncommonly
furnished both in the Principles and in the Con-
-sequences of the great Truths and important Do-
-ctrines, which it will lead in Review before us.

"Law," says he, "in its most general and compre."

After this dry Description of the literal and metapho-
-rical Meaning of a Poet, permit me to relax your strained
Attention by a critical Remark, on the Philosophy of the

B The Parties act from Instinct, not from Design: They eat, they drink, they retreat from the Inclemencies of the Weather, they propagate their species, without considering what their Actions shall ultimately produce. But we know Faculties, which enable us to trace the Connection between Actions and their Effects; and our Actions are Nothing else but the Steps we take, or the Means we employ to carry + Kaemi Ch. 1. Domat. III. into Execution the Effects, which we intend.

See infra p. 21.

Law is called a Rule in order to distinguish it from a sudden or transient or a particular Order: Uniformity, Permanency, Stability characterize a Law.

Again, Law is called a Rule to denote that it carries along with it a Power and Principle of Obligation. Concerning the Nature the Subject of Kaemi. c. 6.

of Obligation many different Opinions have been entertained, and much ingenious Disputation has been held by Philosophers and Writers on this subject. The interesting Subject will be so various, that an accurate and exact account of them would, in the judgment of my Lord Kaemi, be a "delicate historical Moral." Kaemi Ch. 2.

+ Bech. L. 51.

"Lynn. 55. 56."
Camp. 32-35. 37.

H. Bech. 79.
Pl. 45.

human Mind, it is impossible altogether to avoid avoid
Metaphorical Expressions: Our first and most powerful
Nations have been suggested by material objects,
and we cannot speak intelligibly of immaterials,
without continually alluding to Matter and the
Legislation of Matter. ^{But further;} ^{in moral science}
^{the use of} Metaphors ^{is not only necessary, but the}
^{and honest} ^{use of them, if prudent, and guarded, is highly}
advantageous. Nature, says a Writer on the subject,
"has given us the Faculty of Imagination on purpose
that we may be ^{enabled to} ^{conceive} ^{as well as} enlighten,
- viz. ^{to} ^{embellish} ^{to} ^{recom-}
-mend and to enforce ^{them} upon the Mind. For
though Truth, ^{judged by Reasoning,} may be rendered evident and in-
-ferable to the Understanding, by reasoning about
them, ^{yet they} cannot reach ^{the} Heart, ^{and}
be ^{fixed} by Means of the Imagination." To the
Imagination Metaphors are adapted.

From this short Excursion into the Field of Cri-
ticism, let us return to our legal Treat. Law is a Rule
"prescribed" to some Example Revolution, confined within
the Bosom of the Legislator, without being notified, in
some proper Manner, to those for whose Conduct it
is to form a Rule, can never, with Propriety, be
termed a Law. There are many Ways, by which
a Law may become sufficiently known. It may
be printed and published Written Copies of it
may be deposited in public Libraries or other
Places, where every one interested in may
have an Opportunity of inspecting them.
They



[illegible]

They may be proclaimed ~~in a more~~ ^{in general}
~~Meeting of the People~~ not, because he suf-
 fered against the Laws of his Country. His sen-
 timents must make a deep Impression upon o-
 -thers; because when he spoke them ^{they} must
 have made a deep Impression ^{with them} ~~on~~ himself. When
 he spoke them, he stood under a Bill of Al-
 -l, ^{suspended only} ~~ready~~ by the slender Fines of Justice & Justice & ready
 -lender ~~suspended~~ like the sword of Damocles,
 to fall on ^{his} devoted Head. "Do we not live by Laws?"
 "And must we be punished by Laws before they are made?"
 "Far better were it to live by no Laws at all, than to put
 this Necessity of Divination upon a Man, and to
 accuse him of the Breach of a Law, before it be a
 Law at all." A. E. See sup. p. 178

+ Whit. 230.
 Puff. 59.

Secret Articles in Treatise - Part
 of the Law, &c.

* "Sovereign," Puff. 57. "Su-
 -perior," Puff. 116.

131. 38.

The Definition of Law in the Commentaries
 proceeds in this Manner. "Law is that Rule of Action,
 which is prescribed by some Superior and which,
~~Lawgiver is no Law~~ ^{without a Superior?}
 the Inferior is bound to obey. A Superior. - Let
 us make a solemn Pause - Is it possible to the Nature of
 Law, that he who makes it should be Superior? - Is
 it essential to a Law that Inferiority should be involved
 in the Obligation to obey? Are these Distinctions at the
 Root of all Legislation? There is a Law indeed - with
 humble gratitude we acknowledge the Blessing -
 There is a Law indeed which flows from the Supreme
 of Being - a Law more distinguished by the goodness
 than by the Power of its all-perfect Author - a Law
 of Love. Obedience to which is perfect Freedom. But
 does it follow that a Character of Superiority is essen-
 -tially attached to him who makes a Law? and that
 the

in these,



the Character of Inferiority is, in the manner, inseparably attached to him, for whom the Law is made? ^{the} What is Superiority? ^{the} Whence does it spring? ^{all those who put to the test and say the Superior's Law is better} Who is this Superior? ^{Whence} How? - by whom is he constituted? ^{Whence} ~~From whom~~ is his Superiority derived? Does it flow from a Source that is human or from a Source that is divine? From a human Source it cannot flow: For Nothing ^{human} issuing from thence can rise higher than the Fountain. If the Prince, who makes Laws for a Nation is superior in the Terms of the Definition, to the Nation, ^{the People} who obeys; how comes he to be vested with the Superiority? If he is superior, ~~it must derive it from some other Source than them.~~ For the Effect can never be greater than the Cause. ^{the People} If I mistake not, this Notion of Superiority, which is introduced as an essential Part in the Definition of a Law - for we are told[†] that "a Law always supposes some Superior who is to make it" - this Notion of Superiority contains the Germ of the divine Right, for that claim ^{has been improperly made} of Princes to rule and of the corresponding obligation on the People implicitly to obey. Despotism, by an unfair Use of "Superiority" in Politics; and Skepticism, by an unfair Use of "Inferiority" in Metaphysics, have ^{endeavored} attempted - and their attempts have ^{too much} been attended with success - to destroy all true Liberty and sound Philosophy. By their baneful influence, the Science of Man and the Science of Government have been poisoned to their very Fountains. But their Destroyers of ~~them~~ have met, or must meet with their own Destruction.

You see now, Gentlemen, that the fundamental and most important Questions and Principles in Politics and Science

[†] The power is greater than the right. See 77. See also 651 - 656.

[†] 1st. 43.





#. Applied to these -

Human same Law that an human.

A To Superiority their ^{a corresponding} ~~correlation~~ Dependence.
And if

Science are ~~now~~ laid before you: You begin to be sensible how necessary it is to lay the Foundations of Knowledge deep and solid, ^{well} if we mean to build upon the Foundations laid by ^{our} ~~others~~ ^{ancestors}. How necessary it is to carefully and imprudently to examine those Foundations, ~~for~~ ^{how} necessary it is, ~~if they~~ ^{if they} are unsound, to remove them, however venerable they may have become by Age and Reputation. whatever Regard may have been afforded ^{shown} them by those who laid them, by those who built on them, and by those who have supported them.

But was Sir William Blackstone a Notary of de-
spotic Power? I am very far from ^{supposing} believing that he was.
I am equally far from believing that Mr Locke was an
Friend to Infidelity. But yet it is unquestionable that
the Writings of Mr Locke have facilitated the Progress
and have given Strength to the Effects of Superstition. The
high Reputation which he deservedly acquired for his
unlightened Attachment to the wild and tolerating
Doctrines of Christianity secured him the Esteem
and the Confidence of those who were its Friends.
The same high and deserved Reputation inspired
others of very different Views and Characters with a Design
themselves of its Splendor, and, by that Means, to dif-
fuse a fascinating Kind of ^{phantasy} ~~Charm~~ over their own
Sentiments of a very different - of a dark and sable hue.
The Consequence has been, that the Writings of Mr Locke,
one of the ablest sincerest and most amiable Apostles
of Christianity and true Philosophy, have been pervert-
ed to purposes, which he would have deprecated and
prevented had he discovered or foreseen this ^A ~~purpose~~

Simulac

⁺ Russ. I. 476.

A. Berkeley, the celebrated Bishop of Cloyne, wrote his *Concepts of human Knowledge* - a Book calculated in-
tended to disprove the Existence of Matter - with the
express View of banishing Skepticism both from Science
and from Religion. He was even sanguine in his Ex-
pectations of Success. But the Event has proved that
he was egregiously mistaken; for it is evident from
the Vols. to which later Authors have applied it, that
his System leads directly to universal Skepticism. +

Read. Fr. 286. 287.

Similar, though in an inferior Degree, have been ^{and may be}
 the Fate and the Influence of the Writings and Cha-
 -racter of Sir William Blackstone. It will as it

^{as} One of his ~~successors~~ ^{or successors in office} I cannot consider him as a zealous Friend to, or
 has characterized him by the Appellation of a ^{of Government} ~~publican~~ ^{Republican} Government. In this Subject I think I
 an ~~anti-republican~~ ^{anti-republican} can plainly discover his ~~Prejudices~~ ^{Prejudices} and ~~Proposals~~ ^{Proposals},
 views, his Jealousies, and his Attachments. For his pa-
 -rticular an easy and natural Account may be given.

In England, only one specimen of a Commonwealth
 has been exhibited to public View and Examination.
 It must be confessed that the specimen was ^{indeed} ~~as~~
 very unfavourable one, and that, on Trial, it was
 proved to be greatly defective and unsatisfactory.
 It is not ^{is not} ~~surprising~~ ^{surprising} that English Writers and Lawyers with
 an example so ^{inapplicable} ~~unfavourable~~ before their eyes, should
~~disown~~ ^{disown} and ~~denounce~~ ^{denounce} ~~latent~~ ^{latent} ~~agains~~ ^{agains} a ~~Commonwealth~~ ^{Commonwealth}. But, with all
 his ~~Prejudices~~ ^{Prejudices} and, I think, they were obvious and
 strong, ^{with regard to} ~~against~~ ^{against} a ~~republican~~ ^{republican} Government I
~~think~~ ^{think} the ~~theories~~ ^{theories} of a ~~few~~ ^{few} ~~men~~ ^{men} ~~in~~ ⁱⁿ ~~the~~ ^{the} ~~country~~ ^{country} ~~at~~ ^{at} ~~that~~ ^{that} ~~time~~ ^{time} ~~was~~ ^{was} ~~unquestionably~~ ^{unquestionably} ~~in~~ ⁱⁿ ~~friend~~ ^{friend} ~~to~~ ^{to} ~~the~~ ^{the} ~~rights~~ ^{rights}
 of Men. To those Rights, the Authors of the ^{ancient} ~~ancient~~ ^{ancient} ~~all~~ ^{all} ~~Legislation~~ ^{Legislation} concerning ~~James~~ ^{James} ~~in~~ ⁱⁿ ~~the~~ ^{the} ~~Comments~~ ^{Comments},
~~was~~ ^{was} ~~not~~ ^{not} ~~be~~ ^{be} ~~at~~ ^{at} ~~all~~ ^{at} ~~in~~ ⁱⁿ ~~visible~~ ^{visible}.

But in prosecuting the Study of Law on liberal
 Principles and with generous Views, our Business
 is much less with the Character of the Comments,
 views or of their Author, than with the Doctrines which
 they contain. If the Doctrines ^{unqualified} ~~unqualified~~ ^{unqualified} ~~unqualified~~ ^{unqualified} ~~in~~ ⁱⁿ ~~the~~ ^{the} ~~Definition~~ ^{Definition} of Law can be supported on the Prin-
 -ciples

B even admitting him to be as much a Friend
to Liberty as Locke and Berkeley were
Friends to Religion

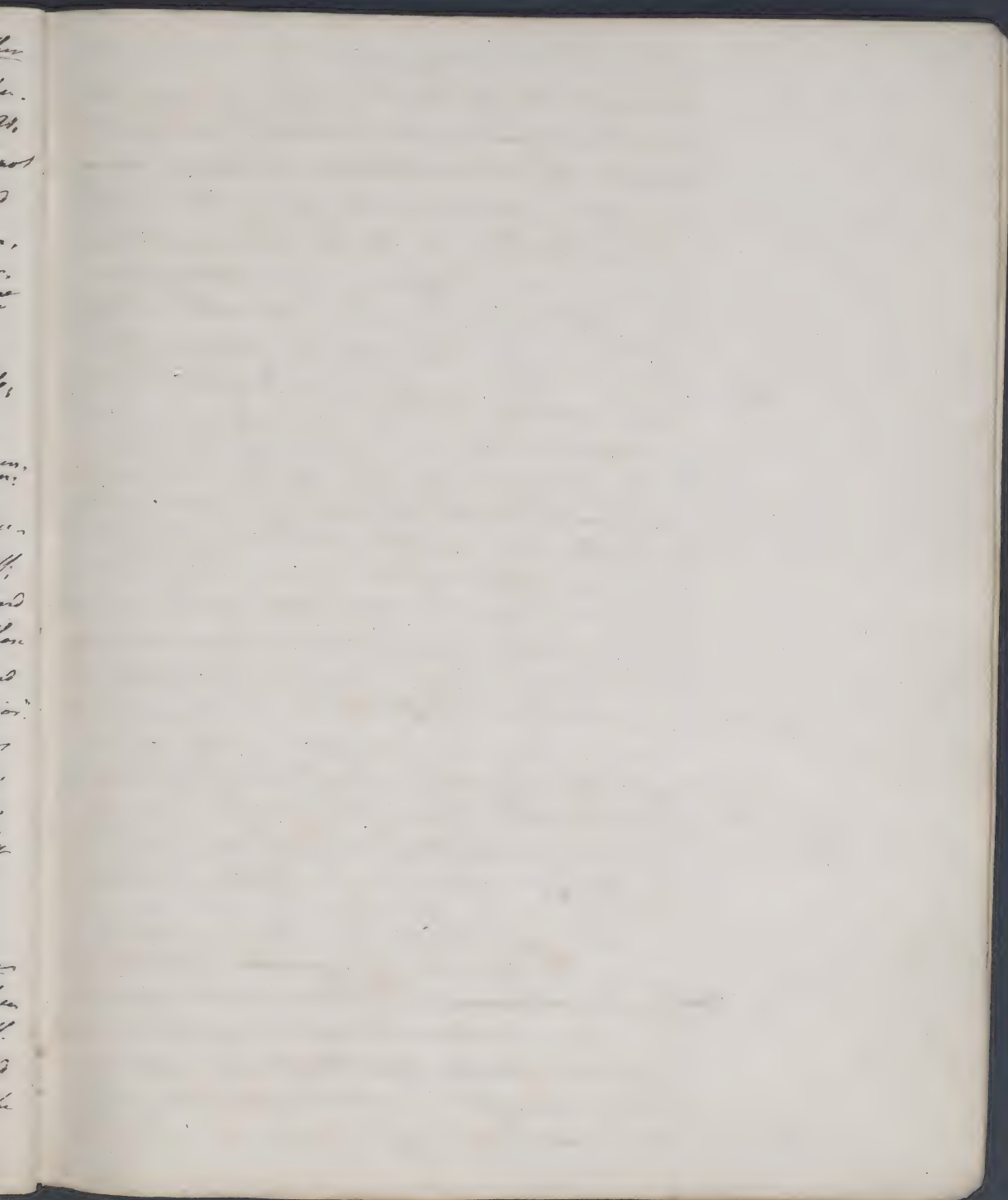
A. An Account, perhaps equally natural and very may
be given for his Attachments. In all reasoning of the
- ^{style} ~~style~~ I believe it is a settled Maxim, that a
- every Revolution in Government is impossi-
- ble, except the single one, which conduct-
- ed them to the Throne. The Maxims of the
- Court have always a ^{their} ~~a~~ ^{different} Influence.
- That Influence, in Favour of one Species of
- Government, may, might, shed impercepti-
- bly upon a Mind, already ^{prejudiced} ~~prejudiced~~ ^{in favour of} ~~in favour of~~
- ~~in favour of~~ another Species of Government, be
- viewed as its Rival and as its Enemy.

As a Lawyer, he is a safe guide; for he is an experienced Guide. In public Law
by his Opinions should be consulted with cautious
Prudence. But even in Public Law, his ^{Reasons}
~~are~~ ^{where they are not proper Objects of} ~~Serious~~
^{from} excellent Materials for ~~Contrast~~. On
every great Question, he richly deserves to be ~~carefully~~ ^{seriously} considered, examined, studied. He
deserves to be followed, not to be simply followed.

- uples of Reason and Science; the Defense of these other
 Principles, which I have thought to be those of Liber-
 ty and just Government, become a hapless at-
 tempt. Sir William Blackstone, however was not
 the first, nor has he been the last, who has defended
 Law upon ^{the same} principles or upon ^{the same} principles
 - gious. - This Subject is of such radical impor-
 - tance that it will be well worth while to trace
 it ^{back} as far as our Materials can carry us; for
 Error as well as Truth should be ^{examined} studied histo-
 - rically, and traced to its original Springs.
 By comparing what is said in the Common-
 - sense and common

By comparing what is said in the Common-
-law on this Subject with what we find on the
-same Subject in the System of Morality, Jurispru-
-dence and Politics written by Baron Puffendorf,
we shall be satisfied that from the Sentiments and
Opinions delivered in the latter Performance than
contained in the former one have been taken and
adopted. "A Law," says ^{Puffendorf} "is the Command of a Superior."
"A Law," says Sir William Blackstone, "always supposes
"some Superior who is to make it." Between a Law
and a compact or Agreement, and between a Law
and a Counsel or Advice, the Distinctions, taken by
both, are the same in Substance, almost in Words.
It will be proper to read them.

Introduction of Supremacy, as a necessary Part of the
The Definition of Law and Form of the ^{Principles} ~~Principles~~ attending that Definition, we have now been
traces from Sir William Blackstone to Puffendorf.
Are they to be ascribed to the latter originally, or did
he derive them from a source still higher? That he
did not derive them from Grotius, who would do
much



much, and — considering the Term which he made — so well, upon general Law, is evident by contrasting their Definitions. Grotius says that Law, taken in "its largest Extent, is a Rule of moral Actions, obliging
 + Gro. 8. "us to what is good and commendable" On this Definition Puffendorf observes, that it supposes something to be just and right before any Rule or Law, whence it must follow, that the Law of Nature does not make what we call Right, but only points it out as a Thing
 "Puff. 57. already existing. Concerning this Hypothesis, he had already declared his Sentiments in that Part of his Work, from which we have made the Citation, that "Law is the Command of a Superior". Barbeyrac, who has enriched the Works of both with numerous, diversified and learned Notes, and who, in this Instance, is a Proselyte to the Opinions of Puffendorf, remarks, concerning Grotius: "The Author's Expression, in this Place, seems to evince, at least, that the Law obliges by itself, and merely as it is a Rule; whereas all Laws derive their Power of obliging from a Superior, who makes them; that is, from some intelligent Being, who has a Right of imposing an indispensable Necessity of submitting to his Direction, on
 "Gro. 8. n. "those, whose Liberty he restrains."

~~Puffendorf derives this Definition of Law derived is not taken from the profound and judicious Hooker. That Hooker acknowledges, however, that such a Definition was known and patronized in his Time; and therefore, we are unjustly ascribe it to Puffendorf originally, but must trace it to a more remote Author. Age. Some, says Hooker "apply the Name of Law unto that only Rule of Working, which superior Authority imposes; whereas we, somewhat more enlarging the Sense thereof term any Kind of Rule or Command, whereby Actions are framed, a Law."~~
 Hook. 4. "Law Puffendorf's Definition"





^{AN} *Lex est Divinum, quo superior sibi subditum obligat, ut ad ista
in prescriptum actiones suas componat.*

*Orig. L. 3. ubi Buff. de off. hom.
et in. l. d. c. 2.*

*This Definition of Buffendorff^{AN} is substantially the same
with that of Hobbes - "A Law is the Command of him
or them that have the sovereign Power given to them
that be his or their Subjects; ^{AN} *substantially the same* + 3. pag. 95. 96.*

*Bishop Saunderson "Law is a Rule of Action imposed on
a Subject, by one who has Power over him" - *lex est regu.*
la. defendi. Subdito potestatem habente imponit" + *Orig. L. 3. ubi Saunders.
de Hb. Bone. Prælat. 5.
p. 3.**

Let us now enquire what is meant by Superiority, that we may be able to ascertain and recognize those Qualities, inherent or derivative, which entitle the Superior or Sovereign to the transcendent Office of imposing Laws.

We can distinguish two Kinds of Superiority. 1.

A Superiority merely of Power. 2. A Superiority of Power, accompanied with a Right to exercise that Power. Is the first sufficient to entitle its Possessor to the Character and Office of a Legislator? If we subscribe the Doctrines of Mr. Hobbes, we shall say, that it is. "To those," says he, "whose Power

"is irresistible, the Dominion of all Men adhereth nature, nally, by their Excellence of Power." This Position is excessive, and confuted fully and particularly by Puffendorf.

strange as it is, has had its Advocates both in ancient and in modern Times. "We follow," says an Athenian Ambassador in the Name of his Commonwealth, "the common Nature and Genius of Mankind, which appoints those to be Masters, who are superior in strength. We have not made this Law; nor are we the first, who have appealed to it. We received it from Antiquity; we are determined to transmit it to the most distant Future, and we claim

"Puff. 62. cites Thucyd. l. 5. c. 105. and use it in our own case." Cromwell, at the Head of his victorious and glorious Hosts, with more Consistency, and with a less striking Inconsistency of Character, tells the vanquished Romans - "Omnia fortiter optine" - Every Thing belongs to the bold and the strong. The prudent Plutarch thinks it "the first and principal Law of Nature," that he whose Circumstances require Protection and Assistance, should admit him for his Ruler, who is able

"Puff. 63. cites Plut. in Pelop." to rescue and defend him. This Sentiment has been adopted with little Variation in modern Politics, when Princes and States have been put and received into Protection. These different Opinions are by Puffendorf, examined and confuted at full length. For as it is sufficient, as

then



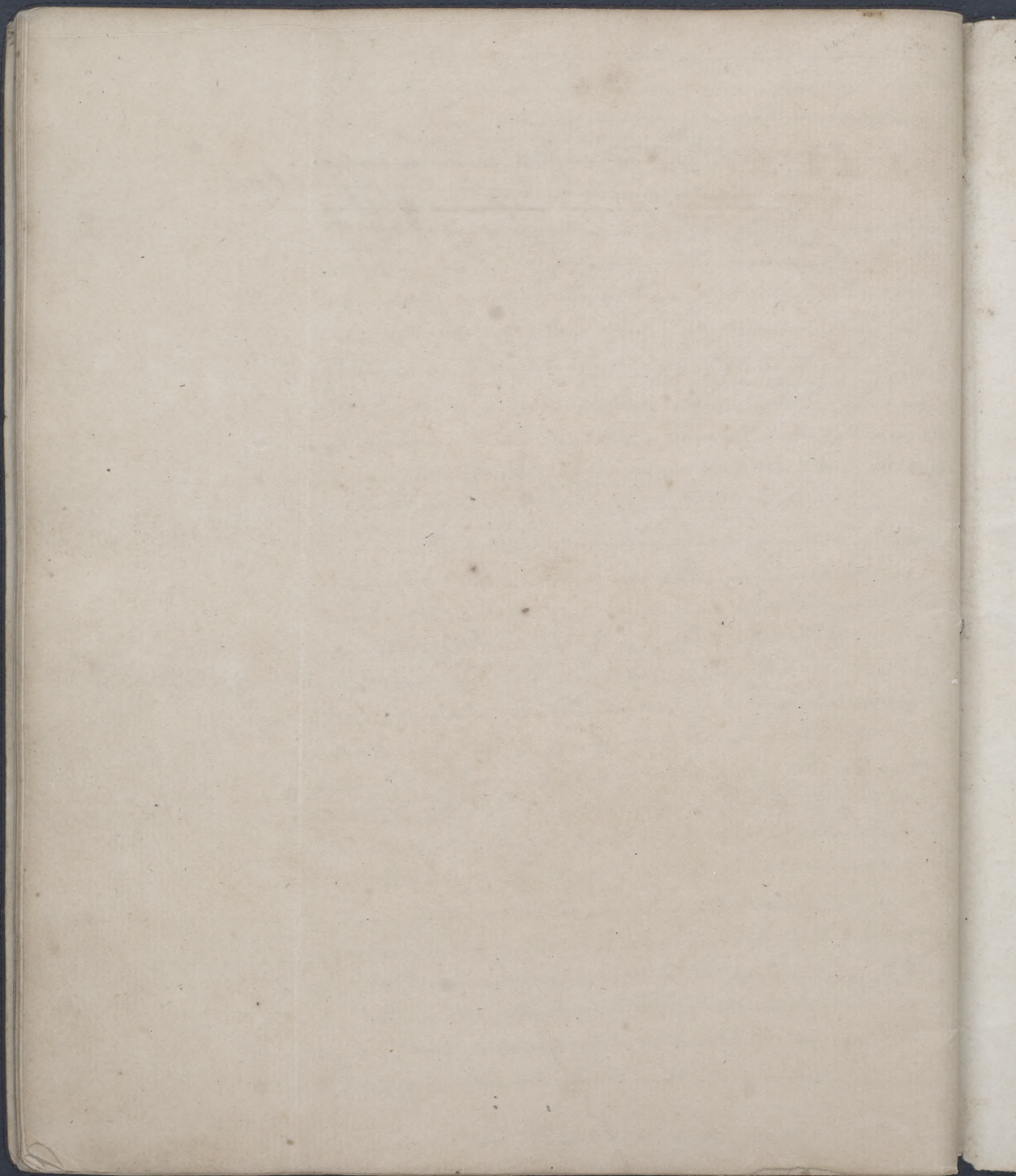


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Men, as Citizens and as States to answer to such as ~~offer~~
~~offer~~ them - Power is nothing more than the Right
 of the strongest, and may be opposed and destroyed
 by the same Right, and by the same Principles,
 which are employed to establish it. A.

Then, unwilling to rest the ^{Right} of Legislation
 and the Right of ^{sovereignty} ~~sovereignty~~ on ^{mere} ~~mere~~ ^{superiority} ~~superiority~~ of Power, have, to this Dis-
 tinction, added ^{the experience of} ~~superior~~ Excellence of Nature. Let it be
 remembered all along that I am examining the
 Doctrine of Superiority, as applied to human laws,
 the proper and immediate ^{Investigation in} ~~Object~~ of this Course
 of Lectures. Of the Law that is Divine, and of its adorable
 Source we shall have Occasion at another Time, to speak
 with the deep Reverence which becomes us.

"It is a Law of Nature," says Dionysius of Halic-
 -carnassus, "common to all Men, and which no
 "Force shall disannul or destroy, that those who have
 "more Strength and Excellence, shall bear Rule over those
 "who have less." The Favours of this Opinion are un-
 fortunate both in the Illustrations, by which they attempt
 to win it, and in the Inferences, to which, they contend, it
 gives Rise. Because, even, by a beautiful Metaphor, de-
 scribing the ^{Government of} ~~other~~ Powers of the Mind ^{as opposed} ~~to~~ by Nature,
 to the Understanding; does it follow that, in strict Proportio-
 nality of Reasoning, the Right of Legislation is annexed, with-
 out any Assignment, to superior Excellence? Aristotle,
 it seems, has said, that if a Man could be found excelling
 in all Virtues, such an one would have a fair Title
 to be King. These Words may well be understood as con-
 veying, and probably were intended to convey, only
 this unquestionable Truth - that Excellence in every
 Virtue to the Beginning of this Book.) Nature





Montgomery 68 J

68-44

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